

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

**FILED**

JAN 29 2018

Clerk, U S District Court  
District Of Montana  
Billings

SCOTT MATTHEW THUM,

Petitioner,

vs.

ATTORNEY GENERAL OF THE  
STATE OF MONTANA,

Respondents.

CV 18-01-BLG-SPW

ORDER ADOPTING  
MAGISTRATE'S FINDINGS  
AND RECOMMENDATIONS

Petitioner Scott Matthew Thum, appearing pro se, seeks habeas corpus relief pursuant to 28 U.S.C. § 2254. Thum is a state prisoner challenging his conviction for felony Criminal Endangerment in Montana's Sixteenth Judicial District. (Doc. 1).

Before the Court are United States Magistrate Judge Timothy Cavan's Findings and Recommendations filed on January 8, 2018. (Doc. 3). Judge Cavan recommends that this Court deny Thum's habeas petition on the merits. (Doc. 3 at 4). Specifically, Judge Cavan determined that Thum failed to make a substantial showing that he was deprived of a constitutional right. (*Id.* at 4).

Pursuant to 28 U.S.C. § 636(b)(1), Thum was required to file written objections within 14 days of the filing of Judge Cavan's Findings and Recommendation. No objections were filed. When neither party objects, this

Court reviews Judge Cavan's Findings and Recommendation for clear error.

*McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000). After reviewing the Findings and Recommendation, this Court does not find that Judge Cavan committed clear error.

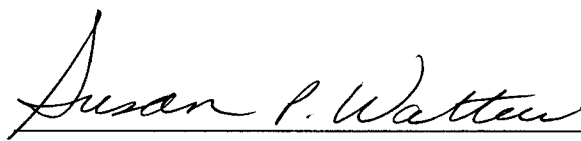
IT IS ORDERED that the proposed Findings and Recommendations entered by United States Magistrate Judge Cavan (Doc. 3) are ADOPTED IN FULL.

IT IS FURTHER ORDERED that this matter is DISMISSED as unexhausted.

IT IS FURTHER ORDERED that the Clerk of Court is directed to close this matter and enter judgment in favor of the Respondents pursuant to Rule 58 of the Federal Rules of Civil Procedure.

IT IS FURTHER ORDERED that a certificate of appealability is DENIED.

DATED this 29<sup>th</sup> day of January 2018.

  
SUSAN P. WATTERS  
United States District Judge